

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

245

**CWP-2151-2021
Date of Decision: 16.08.2023**

GURPREET SINGH JATANA

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Chanchal K. Singla, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The petitioner has approached this Court for seeking transfer of investigation in Case FIR No.10 dated 13.01.2021 (Annexure P-6), registered under Sections 448, 511, 380, 506, 120-B, 148, 149 IPC, 1860 read with Section 25 and 27 of the Arms Act, 1959 at Police Station City Malout, District Sri Muktsar Sahib to some other independent agency.

Learned counsel for the petitioner has argued that the petitioner had purchased a house measuring 1K-4M from respondent No.7- Harbans Singh son of Gurdial Singh vide registered sale deed 29.06.2020 for a total sale consideration of Rs.14,25,000/- paid through banking transaction and have been reflected in the sale deed as well. Actual physical possession of the house was delivered to the petitioner on receipt of the entire sale consideration at the time of execution of the sale deed. Since then the petitioner is in possession of the abovesaid property.

However, despite execution of the sale deed and settled possession of the petitioner, the respondent No.7 became greedy later feeling that the sale deed has been executed at much lower valuation and that he could have fetched a higher price for the same. Hence, he tried to take forcible possession of the property due to which the petitioner had to file civil suit before the Addl. Civil Judge (Sr. Divn.) Sri Muktsar Sahib. Vide order dated 09.09.2020, the Civil Court granted an interim injunction restraining respondent No.7/complainant Harbans Singh and others from interfering into the peaceful possession of the petitioner or dispossessing him from the property except in due course of law. The abovesaid interim order is still continuing. Thereafter, respondent No.7 moved an application before Tehsildar-cum-Sub-Registrar, Malout on 22.09.2020 challenging that the sale deed that had been executed in favour of the petitioner. However, the abovesaid application was withdrawn after furnishing an affidavit dated 12.10.2020. As per the averments contained in the aforesaid affidavit furnished before the Tehsildar-cum-Sub Registrar, Malout, the said application challenging the sale deed had been filed on the instigation by certain mischievous persons and reiterated that he did not intend to proceed with the same.

Notwithstanding the above as well as the interim order of the Civil Court, the respondent No.7 entered the premises on 12.01.2021 at around 7.00 PM and attacked the father of the petitioner in a bid to seize forcible possession of the house. The matter was reported to the police alongwith the X-Ray report showing fracture in the arm of the father of the petitioner. The official respondents, instead of taking action on the complaint submitted by the petitioner about the conduct of the complainant/respondent No.7 and causing injuries to his father, registered FIR No.10 dated 13.01.2021 against the

petitioner. Learned counsel for the petitioner contends that the respondent No.4 is a police official of doubtful antecedents and he has a criminal record. An allegation was made that the police officials were conniving with respondent No.7 in false implication of the petitioner so as to restore possession of the above house in favour of respondent No.7.

During the course of hearing on 12.03.2021, a submission was advanced by the petitioner that respondent No.4 is wanted in many FIRs that have been registered against him. The Director General of Police, Punjab was thus directed to file personal affidavit responding to the same.

In compliance thereto, an affidavit dated 11.04.2022 had been filed by the DGP, Punjab, wherein details of the 08 cases registered against DSP Jaspal Singh-respondent No.4 have been mentioned. The same are extracted as under:

- (i) FIR No.179 dated 25.04.2022 registered under Sections 323, 324, 341 of IPC at Police Station City Faridkot.
- (ii) FIR No.533 dated 13.11.2008 under Sections 365, 366, 307, 148, 149 of IPC and section 25 of Arms Act at Police Station City Faridkot.
- (iii) FIR No.145 dated 13.09.2009 under Sections 307, 148, 149 of IPC and Sections 25, 27 of Arms Act at Police Station Sadar Faridkot.
- (iv) FIR No.22 dated 25.09.2009 under Sections 307, 148, 149 of IPC and Sections 25, 27 of Arms Act at Police Station Ghall Khurd, District Ferozepur.
- (v) FIR No.533 dated 13.10.2009 under Section 307, 323, 149 of IPC and Sections 25, 27 of Arms Act at Police Station Sangaria (Rajasthan).

- (vi) FIR No.381 dated 09.08.2010 under Sections 323, 365, 120-B, 341, 147, 148, 149 of IPC at Police Station Anupgarh (Rajasthan).
- (vii) FIR No.174 dated 08.07.2014 under Sections 447, 427, 511, 506, 120-B of IPC and Section 25 of Arms Act at Police Station City Faridkot.
- (viii) FIR No.125 dated 17.06.2017 under Sections 148, 149 of IPC at Police Station City Faridkot.

It was further stated that respondent No.4 did not furnish information with regard to the cases that had been registered against him, at the time of appointment and a regular departmental inquiry has already been initiated against the said official. It was further pointed out that out of the eight cases, the respondent No.4 was found involved in five cases and was not involved as an accused in three cases. Cancellation report had been filed in four of the said five cases and whereas he has been acquitted in one case and that no criminal case was pending as on the date of filing of the affidavit. It was also referred that one departmental inquiry for inept investigation in case FIR No.175 dated 01.12.2019 had also been initiated against respondent No.4- i.e. Deputy Superintendent of Police and the said departmental proceedings were under progress. Another draft charge sheet had been sent to the State Govt. on 21.03.2022 under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 on the allegations that he failed to take appropriate action as a supervisory officer of Sub Division Malout, to control the drug abuse in the area.

A separate reply has also been filed by the police wherein they have reiterated the allegations levelled by respondent No.7 against the petitioner and have justified the registration of FIR against the petitioner. It is averred that

the FIR in question was registered against the petitioner for hatching a conspiracy to take illegal possession of the house in question and that possession of household articles and other properties belonging to the complainant had been undertaken on gunpoint. The complainant was also threatened with dire consequences. It is averred that the complainant Harbans Singh had entered into an agreement to sell the above said property to the petitioner herein against a sale consideration of Rs.58,00,000/- and that even though it was mentioned in the sale deed that purchase was for a sale consideration of Rs.16,25,000/- and cheque payment had been made. The balance payment having not been made, possession of the property was not delivered by the complainant. The cheques issued in favour of the complainant were stolen from his house and the amount in question had been withdrawn. A Civil Suit has also been filed to cancel the sale deed of the house in question; and a settlement was effected between the parties whereafter three cheques for a total amount of Rs.42,00,000/- were issued by Gurlal Singh i.e. father of the petitioner, however, the necessary payment has not been made.

However, the reply filed by way of an affidavit of Balkar Singh, PPS, Deputy Superintendent of Police is non-responsive with regard to the execution of sale deed in favour of Gurpreet Singh i.e. the petitioner herein, the institution of the civil suit as well as the withdrawal of the application from the office of Sub-Registrar. The police has even failed to reflect upon the link as to why co-accused Gurlal Singh i.e. the father of the petitioner had issued these cheques in favour of the complainant Harbans Singh. It seems that the petitioner has not approached this Court reflecting the true genesis of the occurrence and has concealed the background. He has chosen to remain silent on the above said issues, despite the reply having been filed in March 2023.

Learned State Counsel submits that an SIT has been constituted by the Senior Superintendent of Police, Sri Muktsar Sahib and the same is not headed by respondent No.4 i.e. the Deputy Superintendent of Police against whom allegations have been levelled. It is further submitted that the Deputy Superintendent of Police, (Investigation) is currently heading the said SIT.

In view of the fact that the petitioner has not approached this Court with clean hands and that SIT is headed by an officer of the rank of a DSP other than respondent No.4, I do not find any reasons to entertain the apprehension expressed by the petitioner. No valid grounds exist for transferring the investigation as there is no allegation of malice or mischief against the SIT or its members. The petitioner cannot be permitted to steer the investigation under the garb of fair investigation. The Senior Superintendent of Police, Sri Muktsar Sahib may, if so advised, depute any other senior officer to head the SIT.

The present petition is accordingly disposed of.

AUGUST 16, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No